

Law Offices

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(OF COUNSEL)

No. 981046

Date OCT 23 1983

Fee \$ 50.00

ICC FILED, D. C.  
SHREWSBURY OFFICE  
621 SHREWSBURY AVENUE  
SHREWSBURY, N.J. 07701  
TELEPHONE (201) 842-4500

PLEASE REPLY TO  
P.O. BOX 724  
ELIZABETH, N.J. 07207

October 21, 1983 14181

Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423

OCT 25 1983 10 02 AM  
INTERSTATE COMMERCE COMMISSION

Att: Room 2303

Re: National State Bank - Eastern Railcar Services, Inc.

Dear Sirs:

We represent The National State Bank, Elizabeth, N.J. Enclosed please find an original and one copy of a Security Agreement in which Eastern Railcar Services, Inc. grants a security interest in private railroad passenger cars and additional collateral to the Bank. The railcars are described in the Security Agreement as follows:

Private railroad passenger car named "St. Lucie Sound", Car No. ERS 1; built by the Budd Company in 1947;

Private railroad passenger car named "Great Sound", Car No. ERS 2; built by American Car & Foundry Co. in 1949.

These descriptions include all identifying marks on the two cars.

The debtor, Eastern Railcar Services, Inc., has its principal place of business at 420 Victor Street, Scotch Plains, N.J. 07076. The secured party, The National State Bank, Elizabeth, N.J., is a banking corporation of the United States of America, with its main office at 68 Broad Street, Elizabeth, N.J. 07207.

I enclose a check in the amount of \$50.00 representing the filing fee for the enclosed Security Agreement. Please stamp the original as filed, return it to me in the enclosed self-addressed envelope, and file the notarized copy. We have

*Concluded by Anna Kelly*

*Mackenzie, Welt, Duane & Lechner*  
*A Professional Corporation*

Interstate Commerce Commission  
October 21, 1983  
Page 2

arranged for Transportation Traffic Services to deliver this  
Security Agreement to you for filing.

Very truly yours,

MACKENZIE, WELT, DUANE & LECHNER

A handwritten signature in cursive script that reads "Richard T. Corbett". The signature is written in dark ink and is positioned above the printed name.

Richard T. Corbett

RTC/dhp  
Encls.

**Interstate Commerce Commission**  
Washington, D.C. 20423

10/25/83

OFFICE OF THE SECRETARY

Richard T. Corbett  
Mackenzie, Welt, Duane & Lechner  
One Elizabethtown Plaza  
Elizabeth, N.J. 07201

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **10/25/83** at **10:00am** and assigned re-recording number(s). **14182**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

# SECURITY AGREEMENT

Date Oct. 21, 1983

Between (name) EASTERN RAILCAR SERVICES, INC.

(Address) 420 Victor Street, Scotch Plains, New Jersey

(a corporation, partnership, individual, herein called the "Borrower") and THE NATIONAL STATE BANK, ELIZABETH, N. J. (herein called the "Bank")

SECTION 1. LOAN AGREEMENT. The Bank, upon execution and delivery to it by Borrower of this agreement, Borrower's promissory note(s), financing statement and completion of other required details will make a loan to Borrower. The promissory note(s) shall be in the face amount of \$100,000.00 payable on the terms and at the interest rate set forth in the note(s).

SECTION 2. COLLATERAL. To secure the payment and performance of all obligations of Borrower set forth in this agreement, the note(s) and any other obligations of Borrower to the Bank, Borrower grants to the Bank a security interest in the following collateral.

## 2.1 DESCRIPTION OF COLLATERAL.

ALL fixtures, furnishings, machinery, equipment, and inventory of the Borrower, now owned or hereafter acquired, including but not limited to (a) Private railroad passenger car named "St. Lucie Sound", Car #ERS 1, built by the Budd Company in 1947; and (b) Private railroad passenger car named "Great Sound", Car #ERS 2, built by American Car & Foundry Co. in 1949, together with all accessories, substitutions, additions, replacements, parts and accessions affixed to or used in connection with said property.

ALL accounts receivable, notes, instruments or chattel paper of the Borrower, now existing or hereafter arising.

ALL contract rights and general intangibles of the Borrower, now existing or hereafter arising.

RECORDATION NO. 14181 Filed 1425

OCT 25 1983 10 00 AM

INTERSTATE COMMERCE COMMISSION

together with all accessories, substitutions, additions, replacements, parts and accessions affixed to or used in connection with the collateral.

2.2 OTHER PROPERTY OF BORROWER IN BANK'S POSSESSION OR CONTROL. All goods, instruments, documents of title, policies and certificates of insurance, securities, chattel paper, deposits, or other property owned by Borrower or in which Borrower has an interest which are now or may hereafter be in the possession and control of the Bank by documents of title or otherwise.

## 2.3 USE OF COLLATERAL. Borrower shall use the collateral

- ☒ a. In business, or
- ☐ b. For personal, family or household purposes, or
- ☐ c. In farming operations.

## 2.4 LOCATION OF COLLATERAL.

(a) Fixtures.

(1) If the collateral is or will be attached to real estate, the address of the real estate is \_\_\_\_\_ and the name and address of the record owner, if other than Borrower, is \_\_\_\_\_

(2) If the collateral is or will be attached to the real estate prior to this loan or prior to the perfection of the Bank's security interest, Borrower will furnish the Bank with subordinations by all persons having any interest in the real estate. The names, addresses and interest of all persons whose interests are to be subordinated, other than those set forth in Section 2.4(a)(1) are \_\_\_\_\_

(b) Goods used in more than one state. If the collateral is goods of a type which are normally used in more than one state, the chief place of business of Borrower, if other than the address of Borrower set forth at the beginning hereof, is \_\_\_\_\_

(c) Other Goods. In any other event the collateral will be kept at the following address, if other than the address of Borrower set forth at the beginning hereof: The railroad passenger cars may be kept from time to time at

600 North Union Avenue, Building #3, Parkway Business Center, Hillside, New Jersey

## 2.5 SPECIAL TERMS AND CONDITIONS.

THIS AGREEMENT INCLUDES ALL THE TERMS ON THE REVERSE SIDE HEREOF.

ATTEST  
Richard O. Regenthal  
Richard Regenthal, Secretary of Corporate Borrower

EASTERN RAILCAR SERVICES, INC.  
By Richard O. Aichele  
Richard O. AICHELE, President

Payment and performance of the above obligation absolutely, unconditionally and continuously guaranteed.

THE NATIONAL STATE BANK, ELIZABETH, N. J.  
By Marcia Allen  
Authorized Signature MARCIA ALLEN, V. Pres.

ATTEST:

By \_\_\_\_\_

By \_\_\_\_\_

9286

### SECTION 3. OTHER AGREEMENTS OF BORROWER.

3.1 USE OF PROCEEDS OF LOAN. If the loan is to be used to pay a portion of the purchase price of the collateral, Borrower either will use all the proceeds of the loan to pay the purchase price and for no other purpose, or hereby authorizes the Bank to make payment of the proceeds of the loan directly to the seller of the collateral and to pay premiums on such insurance as may be deemed necessary by the Bank.

3.2 SELL, ETC. Borrower will not sell, exchange, lease or otherwise dispose of the collateral, nor permit any lien or security interest therein, or a financing statement to be filed, other than that of the Bank.

3.3 PRESERVATION. Borrower will maintain the collateral in good condition and repair and preserve it against loss, damage or depreciation in value other than by reasonable wear.

3.4 INSURANCE. Borrower will carry insurance on the collateral against fire, theft and other casualty, including collision, if applicable, in an amount and with insurers satisfactory to the Bank, loss to be payable to the parties as their respective interests may then appear. In the event of any loss or damage to the collateral Borrower forthwith shall notify the Bank in writing and file proofs of loss with the insurers. Borrower, upon request, shall deliver to the Bank the policies or certificates.

3.5 TAXES. Borrower will pay, when due, all taxes, license fees and assessments relating to the collateral or its use.

3.6 AUTHORITY TO BANK. Borrower authorizes the Bank, if Borrower fails so to do, to do all things required of Borrower by Sections 3.3, 3.4 and 3.5 and charge all its expenses to Borrower with interest at 6% from the date incurred by the Bank.

3.7 CHARGING DEPOSIT ACCOUNT. Borrower authorizes the Bank, without demand and acting in its discretion in each instance, to charge and withdraw from any credit balance which Borrower may then have with the Bank or any of its branches any amount which shall become due from Borrower to the Bank under this agreement. The Bank, within a reasonable time, shall advise Borrower of each such charge and the amount thereof.

3.8 REMOVAL AND INSPECTION. Borrower will not remove the collateral from the specified location, except in the normal course of business for temporary periods, without the prior written consent of the Bank and will permit the Bank to inspect the collateral at any time.

3.9 PERFECTION OF SECURITY INTEREST. Borrower will join with the Bank in executing, filing and doing whatever may be necessary under applicable law to perfect and continue the Bank's security interest in the collateral, all at Borrower's expense.

3.10 EXTENSIONS AND RELEASES. Borrower consents to any extension of time of payment, or to any substitution, exchange or release of collateral, and to the addition to or release of any party or person primarily or secondarily liable.

### SECTION 4. GENERAL.

4.1 NEGOTIABILITY OF NOTE(S). The promissory note(s) which this agreement secures is a separate instrument and may be negotiated, assigned, extended or renewed by the Bank without releasing Borrower, the collateral or any guarantor or co-maker.

4.2 LAW GOVERNING. All the terms herein, and the rights, duties and remedies of the parties shall be governed by the law of New Jersey.

4.3 BURDEN AND BENEFIT. All of the benefit hereof shall inure to the Bank, its successors and assigns, and the obligations shall be binding upon the Borrower, his or its heirs, legal representatives, successors and assigns.

4.4 GUARANTOR OR CO-MAKER. If there be more than one borrower, or a guarantor or co-maker of the note(s) or this agreement, the obligation of all shall be primary and joint and several.

4.5 NON-WAIVER BY BANK. The Bank shall not be deemed to have waived any of its rights under this or any other agreement or instrument signed by Borrower unless the waiver is in writing signed by the Bank. No delay in exercising its rights shall be a waiver nor shall a waiver on one occasion operate as a waiver of such right on a future occasion.

4.6 NOTICES. Each demand, notice or other communication shall be served or given by mail or telegraph addressed to the party at its address set forth herein or as changed by written notice to the other party, or by personal service upon the party or its proper officer. Reasonable notice, when notice is required, shall be deemed to be 5 days.

4.7 SEVERABILITY. Any part of this agreement contrary to the law of any state having jurisdiction shall not invalidate other parts of this agreement in that state.

SECTION 5. DEFAULT. Borrower shall be in default under this agreement at any time the Bank deems itself insecure and in all events upon the occurrence of any of the following:

5.1 NONPAYMENT OF PRINCIPAL AND INTEREST. Failure to pay when due the principal of or interest on any note.

5.2 BREACH OF BORROWER'S AGREEMENT. Failure by Borrower to keep, observe or perform any provision of this agreement or any other agreement between Borrower and the Bank.

5.3 MISREPRESENTATION. Misrepresentation or material falsity of any certificate or statement made or furnished by Borrower to Bank whether or not in connection with this agreement.

5.4 INSOLVENCY. Death of, termination of business of or commencement of any insolvency proceedings by or against Borrower or if Borrower becomes insolvent.

SECTION 6. REMEDIES ON DEFAULT. In addition to all the rights and remedies of a secured party upon default set forth in the Uniform Commercial Code, the note(s) and this agreement, the Bank may declare the note(s) immediately due and payable, and

6.1 ASSEMBLE COLLATERAL. May require Borrower to assemble the collateral and make it available at a designated reasonably convenient place.

6.2 COUNSEL FEES AND LEGAL EXPENSE. Charge Borrower reasonable counsel fees and legal expenses incurred by the Bank in retaking and realizing on the collateral.

SECTION 7. SEE RIDER ATTACHED HERETO AND MADE A PART HEREOF.

RIDER ATTACHED TO AND MADE A PARTY OF SECURITY AGREEMENT BY AND BETWEEN EASTERN RAILCAR SERVICES, INC., AS BORROWER, AND THE NATIONAL STATE BANK, ELIZABETH, N.J., AS LENDER, DATED:

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SECTION 7. Additional Terms and Conditions

7.1 The within Security Agreement is made, executed and delivered as collateral security for the payment of a certain promissory note of Borrower of even date herewith in the sum of \$100,000.00, together with any and all renewals, extensions, substitutions, additions to or modifications thereof, and as collateral security for the payment of any and all indebtedness or indebtednesses now due and payable or hereafter to become due and payable from the Borrower to the Bank, whether created directly, indirectly, joint, contingent, matured, unmatured or otherwise.

STATE OF NEW JERSEY, COUNTY OF UNION

SS.:

I CERTIFY that on October 21, 19 83 ,

personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the secretary of EASTERN RAILCAR SERVICES, INC.  
the corporation named in the attached document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is  
RICHARD O. AICHELE the President of the corporation;
- (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a  
proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on  
October 21, 19 83

*Claire B. Wilner*

CLAIRE B. WILNER

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires Sept. 27, 1986

Prepared by:

*Richard T. Corbett*

N.J.S.A.46:15-13 (Print signer's name below signature)

RICHARD T. CORBETT, ESQ.

*Richard F. Regenthal*

(Print name of attesting witness below signature)

RICHARD REGENTHAL, Secretary

STATE OF NEW JERSEY, COUNTY OF UNION

SS.:

I CERTIFY that on October 21, 1983, Herbert C. Vincent personally came before me and this person acknowledge under oath, to my satisfaction that:

- (a) this person is the Asst. Vice President of The National State Bank, Elizabeth, N.J.
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Marcia Allen, the Vice President of the corporation;
- (c) this document was signed and delivered by the corporation as its voluntary act by a proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

October 21, 1983

CLAIRE B. WILNER HERBERT C. VINCENT

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires Sept. 27, 1986

Prepared by:

RICHARD T. CORBETT, ESQ.